IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No. 339 of 2000
Date of Decision: April 17, 2009

Darshan Singh .....Petitioner

Versus

State of Punjab .....Respondent

Coram: Hon'ble Mrs. Justice Sabina

Present: Mr.H.S.Rakhra,Advocate for the petitioner.
Mr.Amandeep Singh Rai,Assistant Advocate General,Punjab

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Sabina, J.

Petitioner-Darshan Singh was convicted for an offence under Sections 279/304-A of the Indian Penal Code (`IPC' for short) in FIR No. 34 dated 4.10.1996 registered at Police Station Cantt. Bathinda by the Judicial Magistrate 1st Class, Bathinda on 8.12.1999. Vide order of even date, he was sentenced to undergo rigorous imprisonment for the period of four months under Section 279 IPC and to undergo rigorous imprisonment for the period of one year under Section 304-A IPC. Both the sentences were ordered to run concurrently. Aggrieved by the same, petitioner preferred an appeal and the same was dismissed by the Additional Sessions Judge, Bathinda on 24.3.2000. Hence, the present revision petition.

The case of the prosecution, as noticed by the appellate Court in para 2 of its judgment, is reproduced here in below:-

"Briefly stated the facts are that on 4.10.1996 a wireless message was received from Police post, Civil Station, Bathinda regarding the admission of Ram Niwas in the Civil Hospital, Bathina in an injured condition. Then SI Barjinder Kumar went to the hospital alongwith other police officials. He recorded the statement of Harish Chander in which he alleged that on 4.10.1996 he along with Hari Chand, Ram Niwas and Thana Singh were going towards Bathinda on two separate vehicles. He and Hari Chand were riding on Scooter whereas Ram Niwas and Thana Singh were on Motor cycle No. PBD-1164 which was being driven by Ram Niwas and when at about 2.00 p.m. they reached near bus stand Bhucho Khurd a Gypsy bearing registration No. PB-03C/1619 driven rashly and negligently by the driver hit the Motorcycle of Ram Niwas as a result of which both Ram Niwas and Thana Singh fell down and sustained injuries. The accused was driving the Gypsy at that time who stopped it. Ram Niwas fell on the bonut of the Gypsy and became unconscious and Thana Singh also became unconscious and the Motorcycle was also damaged. The accused removed the injured in the said Gypsy to Civil Hospital, Bathinda where Ram Niwas succumbed to the injuries and then accused ran away from the hospital. Thana Singh was referred to DMC, Ludhaina where he also succumbed to the injuries sustained in this accident and his post mortem examination was conducted by Dr.Jasbir Singh at Civil hospital, Ludhiana on police request. SI Barjinder Kumar took out the investigation who prepared inquest report on the dead

body of Ram Niwas and got the post mortem examination conducted by the doctors. He also visited the spot and prepared rough site plan of the place of occurrence. He recorded the statement of witnesses and arrested the accused and also took into possession the offending vehicle and then on completion of investigation the accused was challaned."

Learned counsel for the petitioner has submitted that the accident in question had in fact occurred due to negligence of the driver of the motorcycle himself. It was evident from the site plan and photographs on record that the jeep was being driven on correct side of the road.

Learned counsel for the State, on the other hand, has submitted from the statements of the eye witnesses that it was evident that the accident in question had occurred due to rash and negligent driving of the petitioner.

The accident in the present case had occurred on 4.10.1996 at about 2.00 P.M. PW1 complainant Harish Chander has deposed that Ram Niwas and Thana Singh were travelling on motorcycle No. PBD-1164 from Bhucho khurd to Bhatinda. He was driving a scooter behind the said motor cycle. When they reached a little ahead of Bus Stand Bhucho, a Gypsy bearing No. PB-03C-1619 came from the opposite direction i.e. Bhatinda side. The jeep was being driven at a fast speed by the petitioner and struck against the motorcycle. As a result of this Ram Niwas and Thana Singh suffered injuries. PW2 Hari Chand has corroborated the statement of complainant PW1 with regard to the manner of accident. Both Ram Niwas and Thana Singh succumbed to their injuries. Although both the eye witnesses have duly deposed as per the prosecution story yet a perusal of the

the site plan makes the prosecution case doubtful.

Admittedly, the petitioner was driving the jeep from Bhatinda towards Barnala side. Exhibit PW9/G is the site plan prepared by the Investigating Officer. A perusal of the same reveals that the Gypsy was found at point `A' ,whereas, motor cycle was found lying at point `B'. Thus, the Gypsy/jeep in question was coming on its left side of the road, whereas, it appears that the motor cycle has travelled on its wrong side of the road which resulted in the accident in question. It is unfortunate that in the alleged accident, two persons lost their lives but prosecution is required to prove its case beyond reasonable doubt.

The site plan Exhibit PW9/G creates doubt in the prosecution case. The photographs along with negatives with regard to the place of accident although not exhibited on record yet they were taken in possession vide memo Exhibit PW9/N. A perusal of the same reveal that they also depicts the same picture as shown in the site plan Exhibit PW9/G. In these circumstances, the said fact creates doubt in the prosecution case and whenever there is doubt in the prosecution case, the benefit of the same is liable to be extended to the petitioner.

Accordingly, this petition is allowed. The judgments of the Courts below are set aside. Petitioner is acquitted of the charge framed against him.

(Sabina)
Judge

April 17,2009

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